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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,503	09/30/2003	Mark E. Peters	RSW920030081US1 (101)	6041

46320 7590 01/08/2008  
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EXAMINER

FIELDS, BENJAMIN S

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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01/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,503	<b>Applicant(s)</b> PETERS ET AL.	
	<b>Examiner</b> BENJAMIN S. FIELDS	<b>Art Unit</b> 3692	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Introduction*

1. The following is a **FINAL** Office Action in response to the communication received on November 20, 2007. Claims 1-12 are now pending in this application.

### *Response to Amendments*

2. The Examiner withdraws the previously asserted Double Patenting Rejection based on Applicants response.
3. Applicants Amendment has been acknowledged in that: Claim 2 has been amended; hence, as such, Claims 1-12 are pending within this application.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (US PG Pub. No. 2002/0032616), [hereinafter Suzuki].

Referring to Claim 1: Suzuki discusses a mobile commerce system comprising: a plurality of mobile server wallets each wallet having an association with a corresponding subscriber in a wireless service provider network (Suzuki: Figures 3-4, 6-7; Page 2, Paragraph 0030//Suzuki displays figures which depict a system that is

capable of facilitating the transactions between multiple mobile server wallet's//); a proxy server disposed in said wireless service provider network (Suzuki: Figures 3-4, 6-7; Page 2, Paragraph 0030//In addition, Suzuki discloses a system which possesses a content proxy server//); and a filter plug-in coupled to said proxy server and configured to intercept selected payment messages flowing through the proxy server and to route said payment messages to selected ones of said mobile server wallets (Suzuki: Page 2, Paragraphs 0028-0029; Page 3, Paragraphs 0033-0038//Upon system authentication within the network, payment messages are routed back and forth via the system through the filter plug-in coupled to the proxy server//).

Referring to Claim 2: Suzuki teaches a mobile commerce system further comprising a plurality of profiles communicatively linked to said filter plug-in, each of said profiles specifying a merchant configured to engage in mobile commerce transactions through said wireless service provider network (Suzuki: Figures 3-4, 6-7; Page 2, Paragraph 0030//Suzuki displays figures which depict a system that is capable of facilitating the transactions between multiple mobile server wallet's, hence, an establishment of profiles which correspond to each mobile server wallet//), said filter plug-in having a further configuration for routing said payment messages to said selected ones of said mobile server wallets when a source of said payment messages matches a merchant identity specified in at least one of said profiles (Suzuki: Figures 3, 4, 7; Page 2, Paragraphs 0020-0023//Upon verification of receipt [payment relationship/correlation], a payment transaction process occurs with the system//).

Referring to Claim 3: Suzuki discloses a mobile commerce system wherein individual mobile server wallets are disposed in at least one of an Internet service provider server, said wireless service provider network server, a merchant server, a financial institution server and a portal server.

The examiner notes that the specific group of network communication server's chosen to which the mobile commerce system terminates herein to perform such payment requests does not functionally affect the transaction. These parameters qualify as non-functional descriptive material and do not alter how the method operates. Therefore, this descriptive material is given minimal weight; see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Referring to Claim 4: Suzuki shows a mobile commerce system wherein at least one of said profiles further comprises a specification of a markup language able to be processed in said filter plug-in (Suzuki: Figures 1 & 2; Page 4, Paragraphs 0049-0055//Suzuki shows a terminal equipped with a web browser, a shop server with accessibility to the Hyper Text Transfer Protocol [HTTP], and a wallet server having contents such as Hyper Text Markup Language [HTML]//).

Referring to Claim 5: Suzuki discusses a method for processing mobile commerce transactions in a wireless service provider network, the method comprising the steps of: filtering payment messages flowing between merchants and subscribers to the wireless service provider network to identify specific payment messages associated with specific subscribers in the wireless service provider network (Suzuki: Figure 1(#40);

Page 2, Paragraphs 0021, 0030; Page 3, Paragraph 0048; Page 4, Paragraph 0053//Suzuki refers to a system which combines multiple mobile server wallet's and allows for financial transactions to take place - The system as disclosed can be utilized by both on-line merchants and end-users//); and routing filtered ones of said payment messages to specified mobile server wallets associated with said specific subscribers (Suzuki: Page 2, Paragraphs 0016, 0023; Page 4, Paragraphs 0052-0053//A unique identifier is traced with the payment transactional information for successful routing//).

Referring to Claim 6: Suzuki teaches a method further comprising the steps of: consulting filters which specify specific ones of said merchants (Suzuki: Figures 3, 4, 7; Page 2, Paragraphs 0020-0023//Suzuki teaches a system which is able to filter processes of both merchants, customers, etc.//); monitoring message traffic flowing from said merchants (Suzuki: Page 2, Paragraphs 0016, 0023; Page 4, Paragraphs 0052-0053//A unique identifier is traced with the payment transactional information for successful routing, hence, a traffic flow is indirectly enabled within the system disclosed//); and intervening in purchase transactions originating in said merchants (Suzuki: Page 2, Paragraphs 0016, 0021, 0030; Page 3, Paragraphs 0031-0032//Suzuki refers to a system which combines multiple MSWP's and allows for financial transactions to take place - Suzuki discloses a e-commerce payment transaction system and method//).

Referring to Claim 7: Suzuki discloses a method wherein said routing step comprises routing filtered ones of said payment message to specified mobile server wallets associated with said specific subscribers and positioned outside of the wireless

service provider network (Suzuki: Page 2, Paragraphs 0016, 0023, 0028-0029; Page 3, Paragraphs 0033-0038; Page 4, Paragraphs 0052-0053//Suzuki provides a system which is able to facilitate payment routing outside and inside the network via a network gateway [GW]//).

Referring to Claim 8: The Examiner notes that Claim 8 parallels the limitations of Claim 7. As such, Claim 8 is rejected on the same basis, as is Claim 7, as mentioned *supra*.

Referring to Claim 9: Suzuki discusses a machine readable storage having stored thereon a computer program for processing mobile commerce transactions in a wireless service provider network (Suzuki: Page 1, Paragraph 0009//Suzuki discloses software and a terminal which can be utilized to facilitate payment transactions, hence, "machine readable storage"//), the computer program comprising a routine set of instructions for causing the machine to perform the steps of: filtering payment messages flowing between merchants and subscribers to the wireless service provider network to identify specific payment messages associated with specific subscribers in the wireless service provider network (Suzuki: Page 2, Paragraph 0016; Page 3, Paragraphs 0031-0032//A payment transaction is dedicated to a given mobile server wallet//); and routing filtered ones of said payment messages to specified mobile server wallets associated with said specific subscribers (Suzuki: Page 2, Paragraphs 0016, 0023; Page 4, Paragraphs 0052-0053//A unique identifier is traced with the payment transactional information//).

Referring to Claim 10: Suzuki teaches a machine readable storage (Suzuki: Page 1, Paragraph 0009//Suzuki discloses software and a terminal which can be utilized to facilitate payment transactions, hence, "machine readable storage"//) further comprising the steps of: consulting filters which specify specific ones of said merchants (Suzuki: Figures 3, 4, 7; Page 2, Paragraphs 0020-0023//Suzuki teaches a system which is able to filter processes of both merchants, customers, etc.//); monitoring message traffic flowing from said merchants (Suzuki: Page 2, Paragraphs 0016, 0023; Page 4, Paragraphs 0052-0053//A unique identifier is traced with the payment transactional information for successful routing, hence, a traffic flow is indirectly enabled within the system disclosed//); and intervening in purchase transactions originating in said merchants (Suzuki: Page 2, Paragraphs 0016, 0021, 0030; Page 3, Paragraphs 0031-0032//Suzuki refers to a system which combines multiple MSWP's and allows for financial transactions to take place - Suzuki discloses a e-commerce payment transaction system and method//).

Referring to Claim 11: Suzuki discloses a machine readable storage (Suzuki: Page 1, Paragraph 0009//Suzuki discloses software and a terminal which can be utilized to facilitate payment transactions, hence, "machine readable storage"//) wherein said routing step comprises routing filtered ones of said payment message to specified mobile server wallets associated with said specific subscribers and positioned outside of the wireless service provider network (Suzuki: Page 2, Paragraphs 0016, 0023, 0028-0029; Page 3, Paragraphs 0033-0038; Page 4, Paragraphs 0052-0053//Suzuki provides



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a system which is able to facilitate payment routing outside and inside the network via a network gateway [GW]/).

Referring to Claim 12: Suzuki shows a machine readable storage (Suzuki: Page 1, Paragraph 0009//Suzuki discloses software and a terminal which can be utilized to facilitate payment transactions, hence, "machine readable storage"/) wherein said routing step comprising routing filtered ones of said payment messages to specified mobile server wallets associated with said specific subscribers and selected by said specific subscribers (Suzuki: Page 2, Paragraphs 0016, 0023; Page 4, Paragraphs 0052-0053//A unique identifier is traced with the payment transactional information//).

### ***Response to Arguments***

6. Applicants arguments filed 20 November 2007 have been fully considered but are not persuasive. Applicant argues:

#### **Argument A**

Completely absent from the Examiner's analysis is any identification of a teaching within Suzuki that "each wallet having an association with a corresponding subscriber," as claimed.

#### **Response to Argument A**

The Examiner respectfully disagrees. The Examiner has pointed to Figures 3-4 and 6-7 to show Suzuki's disclosure of a Wallet Server in figures. As the instant application is primarily directed towards wallet servers, the conventional use of a non-mobile or mobile wallet server causes a profile to be created for a subscriber (whether

that subscriber may be a merchant or customer) for quicker usability upon successive iterations within the system/method.

### **Argument B**

Regarding the claimed "filter plug-in coupled to said proxy server and configured to intercept selected payment messages flowing through the proxy server and to route said payment messages to selected ones of said mobile server wallets," the Examiner cited paragraphs [0028]-[0029] and [0033]-[0038], while asserting "[u]pon system authentication within the network, payment messages are routed back and forth via the system through the filter plug-in coupled to the proxy server." Applicants have reviewed the Examiner's cited passage and are entirely unclear as to where Suzuki specifically identically discloses the claimed proxy server and the claimed filter plug-in.

### **Claim 2**

Dependent claim 2 recites, in part, "a plurality of profiles communicatively linked to said filter plug-in," and to teach this limitation the Examiner cited paragraph [0030]. However, this passage (previously reproduced above) is silent as to a filter plug-in and as to profiles that "[specify] a merchant configured to engage in mobile commerce transactions through said wireless service provider network," as claimed. In this regard, Applicants note that the Examiner's analysis fails to establish why the Examiner believes paragraph [0030] identically discloses this limitation. Thus, the Examiner has failed to establish that Suzuki identically discloses the claimed invention, as recited in claim 2, within the meaning of 35 U.S.C. § 102.

### **Response to Argument B**

The Examiner respectfully disagrees. The Examiner notes: Conventional Wallet Servers, etc. comprise a single entity that operates between a merchant and a customer. This 'single entity' usually/essentially is found in the middle of the merchant and the consumer and is used by both. The consumer communicates with the wallet, and the wallet, in turns, communicates with the merchant through the merchant's website. In effect, this entity can be compared to as a filter of sorts in order to achieve successful system interoperability as disclosed; henceforth a filter is implicitly taught in Suzuki. It is commonly known to a person of ordinary skill in the art that a filter is involved in an initiation of an electronic payment transaction, a communication terminal of a customer, or a transaction server. A filter serves as a primary part of the communication system; the communication system allows a communication between the server of the merchant, the communication terminal and the transaction server. The filter, has, among others, the task of forwarding certain messages concerning the electronic payment transaction to assigned receivers. Filters can be a part of a communication system, such as a GSM, GPRS, PPDC, WCDMA, UMTS, Bluetooth type networks, etc. by way of example. In addition, the filter allows among others, that certain messages be redirected to the transaction server for the communication terminal.

### **Argument C**

Completely absent from this passage, however, is a detailed discussion of how the multiple wallet servers are integrated into the system or specifically how payment messages are to be routed to selected ones of the mobile server wallets.

### **Claims 5 and 9**

Independent claims 5 and 9 are also directed to the concept of wallets associated with a specific subscriber and routing filtered payment messages associated with specific subscribers to the wallets. However, as noted above with regard to claim 1, the Examiner has failed to specifically identify a teaching in Suzuki that identically discloses these features. Thus, the Examiner has failed to establish that Suzuki identically discloses the claimed invention, as recited in claims 5 and 9, within the meaning of 35 U.S.C. § 102.

### **Response to Argument C**

The Examiner respectfully disagrees. Applicants decision or choice in design of how the multiple wallet servers are integrated into the system or specifically how payment messages are to be routed to selected ones of the mobile server wallets merely signifies a choice in design [See *In re Fout*, 213 USPQ 532 (CCPA 1982), *In re Siebentritt*, 152 USPQ 618 (CCPA 1967); *In re Seid*, 161 F.2d 229, 231, 73 USPQ 431, 433 (CCPA 1947); *In re Wolfe*, 116 USPQ 443, 444 (CCPA 1961)]. The disclosure of Suzuki teaches multiple wallet servers which can be integrated into a system/method in order to route payment transactions.

The arguments as filed have been fully considered but are not persuasive. As the remaining claims depend directly or indirectly from the independent claims mentioned above, and have not been rebutted, the Examiner maintains all previously asserted rejections.

7. Furthermore, the Examiner notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 ("[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings" to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

First, Applicant has not "specifically point[ed] out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." Applicant's broad request for references to support Examiner's statements of Official Notice amounts to nothing more

than an unsupported challenge. For these reasons, Claims 3-4, 6-8, and 9-12 are taken to be admitted prior art because Applicant's traversal was inadequate.

**Second**, Applicant's challenge is not timely. All statements of Official Notice made in the art rejection have been on record since issuance of the rejection mailed on 20 August 2007. In the subsequent response filed on 20 November 2007, Applicant was silent on the matter of Official Notice. Consequently, the statements of Official Notice made in the art rejection have been established as admitted prior art due to Applicant's failure to adequately traverse the Examiner's assertions of Official Notice. Therefore, Applicant has not sufficiently switched back to the Examiner the burden of supplying references in support of her assertions of Official Notice. Applicant is silent as to the Examiner's rejection of Claims 3-4, 6-8, and 9-12. Furthermore, Examiner asserts the previous rejections of these Claims were taken properly.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN S. FIELDS whose telephone number is 571.272.9734. The examiner can normally be reached on MONDAY through THURSDAY between the hours of 8AM and 8PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KAMBIZ ABDI can be reached at 571.272.6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin S. Fields

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12 December 2007

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